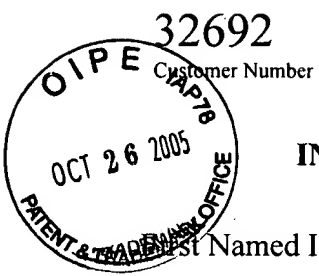


AP/2875  
Patent IFW

Case No.: 56217US002



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: HAASE, MICHAEL A.  
Application No.: 09/736117 Group Art Unit: 2875  
Filed: December 13, 2000 Examiner: John A. Ward  
Title: LASER POINTER WITH MULTIPLE COLOR BEAMS

**PETITION UNDER 37 CFR § 1.181(a)  
TO WITHDRAW HOLDING OF ABANDONMENT**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

<b>CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR § 1.8(a)]</b>	
I hereby certify that this correspondence is being:	
<input checked="checked" type="checkbox"/>	deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
<input type="checkbox"/>	transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at 571-273-0025.
October 24, 2005 Date	 Signed by: Sharon Andrew

Dear Sir:

Applicant hereby petitions under 37 CFR § 1.181(a) for withdrawal of a holding of abandonment in this case. Relevant facts are believed to be as follows:

1. This application was filed on December 13, 2000. This application has been examined by John A. Ward throughout its prosecution.
2. In an Office Action dated May 23, 2003, all claims were rejected as purportedly anticipated by a U.S. patent reference designated "Krietzman" under 35 U.S.C. 102(b) or under 103(a) as unpatentable over Krietzman taken alone. Applicants pointed out that Krietzman was unavailable as 102(b) art, since it issued on December 14, 1999, and the present application was filed less than a year later on December 13, 2000. The rejections were withdrawn.
3. In an Office Action dated September 11, 2003, the rejections over Krietzman were restated, citing 35 U.S.C. 102(e) instead of 102(b). Applicants responded on the substance of the rejections.
4. As a result, on May 12, 2004, the application was allowed.
5. On June 15, 2004, Applicants paid the issue fee.

6. On September 14, 2004, Applicants received a one-page Notice of Withdrawal from Issue, dated September 9, 2004. A copy is attached at Tab A. No other paper accompanied this Notice.

7. Applicants have attached a copy of the file wrapper cover in the Applicants' file wrapper for this application, at Tab B. This record shows receipt of a Notice of Withdrawal dated September 9, 2004, and no other paper until the Applicants' Status Inquiry, see below. Any other paper, such as an Office Action, would have been entered had it been received and docketed.

8. On May 17, 2005, Applicants sent a Status Inquiry accurately stating, "We have not received any further communication from the United States Patent and Trademark Office since the mailing of the Notice of Withdrawal From Issue Under 37 § CFR 1.313 mailed on September 9, 2004." A copy is attached at Tab C, along with Applicants' fax cover sheet and the Auto-Reply Facsimile Transmission sheet received in return from the USPTO.

9. Approximately four months later, on or about the week of September 12, 2005, Applicants' Attorney received a voice mail from Examiner Ward in response to Applicants' Status Inquiry stating that there was an outstanding Office Action in the case.

10. Applicants' Attorney found no such Office Action in Applicants' files and, at that time, found no such Office Action in the online PAIR system.

11. Applicants' Attorney promptly returned the Examiner's call, leaving a voice mail for Examiner Ward stating that Applicants were not in receipt of an outstanding Office Action and found no such Office Action on in the online PAIR system. This message was never returned.

12. A few days later, Applicants' Attorney left a second voice mail for Examiner John A. Ward with the same message. This message was never returned.

13. On September 28, 2005, Applicants received a Notice of Abandonment mailed September 23, 2005.

14. On September 28, 2005, Applicants' Attorney again called Examiner Ward and reached him in person. The Examiner apologized for not returning Applicants' Attorney's messages.

15. On September 28, 2005, Applicants' Attorney found that an Office Action putatively dated September 9, 2004, now appeared on PAIR. Applicants' Attorney's questioned Examiner

Ward about this change, whereupon the Examiner asserted that he had no control over when an Office Action would appear on PAIR.

16. The grounds for rejection recited in the outstanding Office Action are on their face highly questionable. That action rejects outstanding claims as purportedly anticipated by Krietzman under 35 U.S.C. 102(b). (Some but not all claims are also rejected under 103(a) as purportedly unpatentable over Krietzman taken alone.) As noted above, it has already been established before this Examiner that Krietzman is not available as 102(b) art. The rejection is made Final.

17. Applicants are ready to go forward with the prosecution of this case and include herewith their response to the Final Office Action. Applicants attach at Tab D a Notice of Appeal in response to the Final Office Action and ask that it be entered in this case. Applicants are confident that the 102(b) rejection and the 103(a) rejection based thereon should be withdrawn in response to Applicants' Appeal, since the reference that forms the basis of the 102(b) rejection is not available as 102(b) art, and since the application has previously been allowed over that reference.

18. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 USC § 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**Conclusion**

Applicants ask that the holding of abandonment be withdrawn, and that the accompanying Notice of Appeal (Tab D) be entered in this case.

It is believed that no fee is due; however, in the event a fee is required, please charge the fee to Deposit Account No. 13-3723.

Respectfully submitted,

October 24, 2005

Date

By: 

Philip Y. Dahl, Reg. No.: 36,115

Telephone No.: 651-737-4029

Office of Intellectual Property Counsel  
3M Innovative Properties Company  
Facsimile No.: 651-736-3833



UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450  
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OFFICE OF INTELLECTUAL  
PROPERTY COUNSEL  
3M INNOVATIVE PROPERTIES COMPANY

SEP 14 2004

3M Innovative Properties Co  
P.O. Box 33427  
St. Paul, MN 55153-3427

SEP 9 2004

REFERRED TO

In re Application of:  
Michael Albert HAASE  
Application No. 09/736,117  
Filed: December 13, 2000  
Attorney Docket No.  
56217USA US 002

NOTICE OF WITHDRAWAL  
FROM ISSUE  
UNDER 37 CFR § 1.313

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR § 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed May 12, 2004, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquiries should be directed to Sandra L. O'Shea at (571) 272-2378.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Janice A. Falcone, Director  
Technology Center 2800  
Semiconductors, Electrical and Optical  
Systems and Components

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SEP 14 2004

P. Y. DAHL



# Best Available Copy

Form 10878 - 1 - B - PWO

Office of Intellectual Property Counsel

PO Box 33427

St. Paul, MN 55133-5133

Attorney in Charge: DAHL, PHILIP Y.

File No: 56217USA9A.002

Inventor: HAASE, MICHAEL A.

Serial No.: 09/736,117

Filed: 12/13/2000

Title:

LASER POINTER WITH MULTIPLE COLOR BEAMS

Assigned To: 3M IPC

Assignment Recorded: 12/13/2000 Reel/Frame: 011377/0920

1. Application	12/13/2000	21. Notice of Withdrawal	9/9/2004
2. IDS	2/9/2001	22. Status Inquiry	5/17/2005
3. Assignment Recordation	3/12/2001		
4. Filing Receipt	3/21/2001		
5. SIDS	6/13/2001		
6. Office Action	11/7/2001		
7. Reply	2/7/2002		
8. Office Action	5/1/2002		
9. Notice of Publication	6/13/2002		
10. Reply, Ept	9/3/2002		
11. Auto-Reply Fax	9/4/2002		
→ 12. Information Disclosure St.	1/8/2003		
→ 13. Office Action	11/26/02		
14. Amendment	2/26/2003		
15. Office Action final	5/23/2003		
16. RCE, Preliminary Reply	8/15/2003		
17. Office Action	9/11/2003		
18. Amend + Response	1/30/2004		
19. Notice of Allowance + Fee	5/12/2004		
20. Pd. Issue Fee	6/15/2004		

Patent No.

Issue Date

Related Cases:

32692

Customer Number

DUE DATE(S)  
A( )RNEY PyID Duplicate  
DOCKETED pro

Patent  
Case No.: 56217US002

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

First Named Inventor: HAASE, MICHAEL A.

Application No.: 09/736117

Group Art Unit: 2875

Filed: December 13, 2000

Examiner: John A. Ward

Title: LASER POINTER WITH MULTIPLE COLOR BEAMS

**STATUS INQUIRY**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR § 1.8(a)]**

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- ☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

May 17, 2005  
Date

Phyllis J. Boettcher  
Signed by: Phyllis J. Boettcher

Dear Sir:

A request is made for the status of the above-identified application. We have not received any further communication from the United States Patent and Trademark Office since the mailing of the Notice of Withdrawal From Issue Under 37 § CFR 1.313 mailed on September 9, 2004.

Respectfully submitted,

5/17/05  
Date

By: [Signature]  
Philip Y. Dahl, Reg. No.: 36,115  
Telephone No.: (651) 737-4029

Office of Intellectual Property Counsel  
3M Innovative Properties Company  
Facsimile No.: 651-736-3833

\* TRANSMIT MESSAGE CONFIRMATION REPORT \*

NAME: INTEL PROP 220 10W  
TEL : 651 736 6133  
DATE: 05/17/05 11:05

TRANSMIT: USPTO	DURATION	PAGE	SESS	RESULT
TYPE: MEMORY TX	MODE	E-144	00'49	02
			851	OK

<b>FACSIMILE TRANSMITTAL FORM</b>	Application Number	09/736117
	Filing Date	December 13, 2000
	First Named Inventor	Haase, Michael A.
	Art Unit	2875
	Examiner Name	John A. Ward
Fax: 703-872-9306	Attorney Docket Number	56217US002
Total Number of Pages in This Submission: 2		
Date: May 17, 2005	Attorney for Applicant: Philip Y. Dahl	

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Issue Fee Transmittal <input type="checkbox"/> Amendment Transmittal	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/Declaration(s)	<input type="checkbox"/> Petition to Convert a Provisional Application	<input type="checkbox"/> Appeal Communication to Technology Center (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> <b>Status Inquiry Letter</b>
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/> Other Enclosures:
<input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR § 1.52 or 1.53 <input type="checkbox"/> Response to Missing Parts under 35 USC 371 in US Designated/ Elected Office (DO/EO/US)	<input type="checkbox"/> Request for Refund  <input type="checkbox"/> Request for Continued Examination (RCE) Transmittal	
<input type="checkbox"/> Drawings	<input type="checkbox"/> After Allowance Communication to Technology Center	
<b>REMARKS:</b>		

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2 (including cover page)

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Received  
Cover  
Page

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INTEL PROP 220 10W		651 736 6133	05/17/05 11:03 :01/02 NO:851
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<b>FACSIMILE TRANSMITTAL FORM</b>	Application Number	09/736117
	Filing Date	December 13, 2000
	First Named Inventor	Haase, Michael A.
	Art Unit	2875
	Examiner Name	John A. Ward
	Fax: 703-872-9306	Attorney Docket Number
Total Number of Pages in This Submission: 2		
Date: May 17, 2005 Attorney for Applicant: Philip Y. Dahl		

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Issue Fee Transmittal <input type="checkbox"/> Amendment Transmittal	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/Declaration(s)	<input type="checkbox"/> Petition to Convert a Provisional Application	<input type="checkbox"/> Appeal Communication to Technology Center (Appeal Notice, Brief, Reply Brief)
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MAY 18 2005

P. Y. DAHL